

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

No claims are being amended, added, or cancelled. Accordingly, claims 1-17 remain pending in this application.

Specification Objection

In the Specification section of the Office Action, the Examiner objected to the specification as failing to provide antecedent basis for the claimed subject matter. Specifically the Examiner stated that the term "computer readable hardware storage medium" lacks antecedent basis in the specification. Applicants respectfully disagree as provided below.

Paragraph [0039] of the specification refers to the "eax register of the computer." Registers are defined well known hardware storage medium within the CPU of a computer. Further, the specification defines the system as a computer program and describes its execution on a computer (see, e.g., [0011]). It is well known in the art that such a computer program would be stored on a computer readable hardware storage medium within the computer. It is further well known in the art that a computer necessarily includes computer readable hardware storage medium. Reconsideration and withdrawal of the objection to the specification is respectfully requested.

35 USC §103 Rejection

In the §103 section of the Office Action, the Examiner maintained the rejection of claims 1-3 and 6-10 under USC §103(a) as being anticipated by U.S. Patent No. 6,357,008 to Nachenberg (hereinafter "Nachenberg") in view of Christodorescu "Detecting Malicious Patterns in Executables via Model Checking" University of Wisconsin, July 12, 2002, page 1-15 (hereinafter "Christodorescu"). Previously, in response to Applicant's argument that Christodorescu is not prior art, the Examiner stated that "[t]he printed date on Christodorescu 12, 2002 qualifies it as prior art. If the date on the publication is not the date that was made available to the public, applicant needs to file an Affidavit or Declaration." The requested Declaration was provided by the Applicants.

In response, the Examiner asserted that the Declaration was insufficient. The Examiner requested that Applicant state "where, when, and to whom the presentation was made." The previously submitted Declaration was amended and re-executed including this information and is herein resubmitted.

Applicants note that the Examiner stated that "according to the publication retrieved from the Internet, the date of the publication is prior to July 29, 2002 and the place at the "University of Wisconsin, Madison." Applicants respectfully assert that this statement is incorrect. The date and place typed into the document are not any indication of publication. The Examiner has not provided any indication that this document was publicly available prior to July 29, 2002. A date

typed within a document is not an indication of public availability, particularly where the Applicants have attested that the document was not publicly available.

Reconsideration of the availability of the Christodorescu Reference as prior art is respectfully requested.

Christodorescu Reference is not Prior Art

The date cited by the Examiner and appearing on the face of Christodorescu is not a date that the reference was available to the public. The reference is not prior art to the present application. In order to overcome the Examiner's rejection, Applicants file herewith the Declaration of Mihai Christodorescu, an inventor of the above-identified application, under 37 CFR § 1.131. In the attached Declaration, inventor declares that the first public disclosure of Christodorescu was after July 29, 2002, the filing date of the present application, and that the date on the reference is not the date that the presentation was made publicly available. (Declaration, Para. 5).

As previously stated by the Applicant, in Nachenberg, the original executable program is executed in a virtual environment. The original executable program cannot be considered a logically equivalent standardized version since this executable is neither logically equivalent nor standardized as recited in claim 1 and described in the present application. Accordingly, Nachenberg does not teach nor suggest all of the elements of claim 1. This deficiency cannot be cured by Christodorescu since this reference is not prior art.

In view of the foregoing, it is believed that Applicant has established invention of the subject matter of the claims in the pending application prior to the public availability of the Christodorescu reference. Reconsideration and allowance of claim 1 is respectfully requested.

Dependent Claims 2-3 and 6-10

Claims 2-3 and 6-10 depend from claim 1 and include all of the limitations thereof. These claims are allowable for at least the same reasons as the independent claims from which they depend. Reconsideration and allowance of claims 2-3 and 6-10 is respectfully requested.

Claims 4-5 and 11-17

Also in the §103 section of the Office Action, the Examiner rejected claims 4-5 and 11-17 under USC §103(a) as being unpatentable over Nachenberg in view of Christodorescu and further in view of U.S. Patent No. 7,188,369 to Ho, et al. (hereinafter "Ho"). The Examiner stated that Ho discloses "wherein the standardized version maps instructions of the suspect program to corresponding standard synonym instructions." (citing Ho, col. 5, line 25 – col. 6, line 40) Applicants respectfully disagree and traverse the rejection of the Examiner.

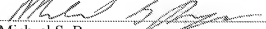
Claims 4-5 and 11-17 depend from claim 1 and includes all of the limitations thereof. Ho does not cure any of the above noted deficiencies of Nachenberg and Christodorescu. Accordingly, these claims are allowable for at least the same reasons as the independent claims from which they depend. Reconsideration and allowance of claims 4-5 and 11-17 is respectfully requested.

Conclusion

Applicants believe that the present application is in a condition for allowance. Applicants appreciate consideration of the above remarks and invites that the Examiner to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

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